

Leeor Neta, *admitted pro hac vice*
leeor@newmanlaw.com
Jake Bernstein, WSBA No. 39362
jake@newmanlaw.com
NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

RIVER CITY MEDIA, LLC, et al.,

Plaintiffs,

v.

KROMTECH ALLIANCE
CORPORATION, et al.,

Defendants.

Case No. 2:17-cv-00105-SAB

**PLAINTIFFS' MOTION FOR
LEAVE TO FILE FIRST
AMENDED COMPLAINT**

Without Oral Argument

Date: March 16, 2018

Time: 6:30 p.m.

Spokane, Washington

Plaintiffs River City Media, LLC, Mark Ferris, Matt Ferris, and Amber Paul (collectively, "Plaintiffs") respectfully request an order granting them leave to file their First Amended Complaint. This case is still in its early stages, and the interests of justice and judicial economy weigh in favor of granting Plaintiffs' motion.

FACTS

On March 21, 2017, Plaintiffs filed their initial complaint against Defendants Kromtech Alliance Corporation, Chris Vickery, CXO Media, Inc. International Data Group, Inc. and Steve Ragan, alleging violations of the Computer Fraud and Abuse Act, the Stored Communications Act, the Defend Trade Secrets Act, the Electronic Communications Privacy Act and other common law torts. (*See* ECF No. 1.)

1 After a few of the Defendants moved to dismiss the initial complaint, the
2 Court denied the motions. (*See* ECF No. 60.) In denying the motions, the Court
3 stated that “it is appropriate ... to grant [Plaintiffs] leave to file an Amended
4 Complaint.”

5 Based on discovery expressly permitted by this Court, the First Amended
6 Complaint substitutes IDG Communications, Inc. in the place of IDG, Inc. (*See*
7 Declaration of Leeor Neta, dated February 14, 2018 (“Neta Decl.”), ¶ 2.) The First
8 Amended Complaint also adds more detail regarding bases for asserting personal
9 jurisdiction over CXO Media, Inc. (*Id.*) The First Amended Complaint does not
10 add any new claims. (*Id.*)

11 AUTHORITY

12 Rule 15(a)(2) of the Federal Rules of Civil Procedure provides that leave to
13 amend a complaint “shall be freely given when justice requires.” Fed. R. Civ. Pro.
14 15(a)(2); *see also Foman v. Davis*, 371 U.S. 178, 182 (1962); *Sonoma Cty. Ass’n*
15 *of Retired Employees v. Sonoma Cty.*, 708 F.3d 1109, 1117 (9th Cir. 2013) (“In
16 general, a court should liberally allow a party to amend its pleading.”).

17 Federal policy strongly favors determination of cases on their merits, so
18 leave to amend pleadings is freely given unless the opposing party makes a
19 showing of “undue delay, bad faith or dilatory motive on the part of the movant,
20 repeated failure to cure deficiencies by amendments previously allowed, undue
21 prejudice to the opposing party by virtue of allowance of the amendment, [or]
22 futility of amendment.” *Foman v. Davis*, 371 U.S. at 182. The party opposing the
23 amendment bears the burden of showing prejudice. *DCD Programs, Ltd. v.*
24 *Leighton*, 833 F.2d 183, 187 (9th Cir. 1987).

25 In this case, the interests of justice and judicial economy favor granting
26 Plaintiffs leave to file an amended complaint. There is no undue delay, bad faith, or
27 dilatory motive in seeking to file the First Amended Complaint. (*See* ECF No. 86.)
28 Plaintiffs timely seek to file their amended complaint and do so in good faith. (*See*

1 *id.*) The First Amended Complaint does not add or alter any of the claims—it
2 merely provides more detail regarding personal jurisdiction and substitutes one
3 corporate entity for another related corporate entity—IDG Communications, Inc.
4 instead of IDG, Inc. (Neta Decl. ¶ 2.) Defendants will not be prejudiced by the
5 requested amendment and still have ample time to conduct any additional
6 discovery. (*See* ECF No. 86.) Plaintiffs have not previously sought to amend the
7 complaint and the amendment is not futile. (Neta Decl. ¶ 3.) Therefore, Plaintiffs
8 respectfully request the Court grant their motion and accept their proposed First
9 Amended Complaint for filing.

10 CONCLUSION

11 Based on the foregoing, Plaintiffs respectfully request that the Court grant
12 them leave to file their First Amended Complaint.

13
14 Dated: February 14, 2018

NEWMAN DU WORS LLP

15
16 
17 Jason E. Bernstein, WSBA Bar No. 39362

jake@newmanlaw.com

18 Leeor Neta, *admitted pro hac vice*

leeor@newmanlaw.com

19 2101 Fourth Avenue, Suite 1500

20 Seattle, WA 98121

21 (206) 274-2800

22 Attorney for Plaintiffs

23 RIVER CITY MEDIA, LLC

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 14, 2018, I electronically filed the
3 foregoing with the Clerk of Court using the CM/ECF system, which will send a
4 notification of such filing (NEF) to the following:

5 **Attorneys for Defendants International Data Group, Inc., CXO Media, Inc.
6 and Steve Ragan**

7 Kevin J. Curtis
8 WINSTON & CASHATT
9 601 W. Riverside, Ste. 1900
10 Spokane, WA 99201
11 *kjc@winstoncashatt.com*

Charles L. Babcock
William J. Stowe
Jackson Walker L.L.P.
1401 McKinney Street, Suite 1900
Houston, TX 77010
cbabcock@jw.com
wstowe@jw.com

11 **Attorneys for Kromtech Alliance Corp.**

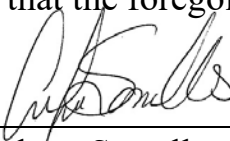
12 Amy McGowan Smith
13 Matthew D. Brown
14 Cooley LLP
15 1355101 California Street, 5th Floor
16 San Francisco, CA 94111
17 *amsmith@cooley.com*
18 *brownmd@cooley.com*

Christopher B. Durbin
Cooley LLP
1700 Seventh Avenue, Suite 1900
Seattle, WA 98101
cdurbin@cooley.com

16 **Attorneys for Defendant Chris Vickery**

17 Edward C. Chung, Esq.
18 Chung, Malhas & Mantel, PLLC
19 1511 Third Avenue, Suite #1088
20 Seattle, WA 98101
21 *Echung@cmmlawfirm.com*
22 *Litigation@cmmlawfirm.com*

23 I declare under penalty of perjury that the foregoing is true and correct.

24 
25 _____
26 Arlyne Sorrells
27 Paralegal
28